IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 3294 of 2001

For Approval and Signature:

HONOURABLE MR.JUSTICE AKIL KURESHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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AHMEDABAD MUNICIPAL CORPO. - Petitioner(s)

Versus

DHANJIBHAI NANJIBHAI MAKWANA - Respondent(s)

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Appearance :
MR RM CHHAYA for Petitioner(s) : 1,
RULE SERVED for Respondent(s) : 1,
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CORAM : HONOURABLE MR.JUSTICE AKIL KURESHI

Date : 11/10/2005

ORAL JUDGMENT

In the present petition, the petitioner Ahmedabad Municipal Corporation has challenged the legality of the order dated 12th March 2001 passed by the Labour Court, Ahmedabad. By the impugned order, the Labour Curt was

pleased to allow the application of the respondent-workman under section 33C(2) of the Industrial Disputes Act. The Labour Court granted the relief of payment of Rs.16,567/- by way of overtime wages.

2. Learned advocate Shri Chhaya challenged the order of the Labour Court primarily on the ground that without there being any pre-existing right or adjudication of disputes between the parties, the Labour Court straightway allowed the recovery application. He pointed out that the stand of the petitioner before the Labour Court was that as per the rules of the Corporation, the respondent was not authorised to work beyond his regular duty hours and that in any case, the respondent had not discharged his duties beyond his normal duty hours contrary to the suggestion that he had discharged duties from 8.00 in the morning till 8.00 at night.

3. Upon perusal of the order of the Labour Court, it can be noted that such contentions were recorded by the Labour Court. However, the Labour Court proceeded to allow the recovery application and granted payments for over-time wages. When a specific contention of the employer was that the workman has not discharged duties

beyond the normal duty hours, straightway in a recovery application without there being a pre-adjudication of such an issue, the Labour Court ought not to have granted the payments as prayed for. The order of the Labour Court suffers from error and the same is therefore required to be and is hereby set aside. Rule is made absolute accordingly with no order as to costs.

(Akil Kureshi, J.)

(vjn)